

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

WEST BEND MUTUAL INSURANCE COMPANY,

Plaintiff,

Case No. 20-cv-0153-bhl

v.

COAKLEY BROTHERS COMPANY, et al.,

Defendants.

ORDER ADDRESSING PROCEDURAL MISTAKES

On November 25, 2020, Brothers Business Interiors LLC (BBI), Coakley Brothers Company (Coakley), and QBE Insurance Corporation (QBE) (collectively, the Coakley Defendants) filed an expedited motion for a more definite statement pursuant to Fed. R. Civ. P. 12(e), against other defendants, Certain Underwriters at Lloyd's – Syndicate 457 a/k/a Munich Re 457 (Syndicate 457) and Roanoke Insurance Group, Inc. (Roanoke) (collectively, the Roanoke Defendants). (ECF No. 129.) The Coakley Defendants argue that the Roanoke Defendants' counterclaim and crossclaim against them are procedurally and substantively ambiguous and should be repleaded with a more definite statement. (*Id.*) The Roanoke Defendants timely responded on December 2, 2020.

The Court will deny the expedited motion for a more definite statement. But the Court agrees that the Roanoke Defendants' claims against BBI should have been brought under Fed. R. Civ. P. 14 as a third-party complaint instead of under Fed. R. Civ. P. 13. Although procedurally improper, the Roanoke Defendants requested and received a summons for BBI, and have filed proof that BBI was properly served on November 17, 2020. (ECF No. 118, 134.) Because BBI was properly served, it has not suffered prejudice from the Roanoke Defendants' procedural or captioning error. The Court will deem the Roanoke Defendants' claims filed against BBI as third-party claims under a third-party complaint. The Roanoke Defendants will be named a third-party plaintiff, and BBI will be named a third-party defendant.

On December 8, 2020, plaintiff West Bend Mutual Insurance Company filed a stipulation to correct the title of its most recent amended complaint. (ECF No. 137.) The parties stipulate that the amended complaint at ECF No. 110 should be titled plaintiff's Third Amended Complaint, not the second. The Court will approve the stipulation. Accordingly,

IT IS HEREBY ORDERED:

1. The Coakley Defendants' expedited motion for a more definite statement, ECF No. 129, is DENIED.
2. The Roanoke Defendants' claims against BBI shall be construed as being filed as a third-party complaint under Fed. R. Civ. P. 14.
3. The stipulation to correct pleading title, ECF No. 137, is APPROVED. The pleading at ECF No. 110 shall be renamed as plaintiff's Third Amended Complaint.

Dated at Milwaukee, Wisconsin on December 8, 2020.

s/ Brett H. Ludwig

BRETT H. LUDWIG
United States District Judge